THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 9082 of 1999

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DATED: 05-08-2005

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A.Ramanjaneyulu.

..... PETITIONER

AND

The Commissioner Muncipal Corporation,

Kurnool, Kurnool District.

.....RESPONDENT

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the respondent, in insisting the petitioner to pay developmental charges and other penal amounts contrary to the guidelines contained in G.O.Ms.No.419, dated 30-07-1998, as arbitrary, illegal and unconstitutional.

2. It is the case of the petitioner that after obtaining permissions on 23-03-1991, 16-08-1991 and 09-02-1986 from the then Kurnool Municipality he constructed the ground and first floors of his building. After completion of the construction the municipality had assessed the building and allotted Dr.No.18/53-57 and accordingly he has been paying the tax. When he came to know that he has committed some deviations in construction of the above said building as per the G.O.Ms.No.419 MA, dated 30-07-1998, issued for the regularization of unauthorized constructions, he made an application on 31-12-1998. Along with Form-A, he paid an amount of Rs.20,000/-. Thereafter, the impugned order, dated 15-02-1999, is passed by the

municipality demanding an amount of Rs.2,27,379/-, which includes the penal amount determined for the entire structure, the development charges, building licence fee and other charges. On receipt of the impugned order, he submitted his explanation on 28-02-1999, but no action has been taken on the said explanation. Aggrieved thereby, the present Writ Petition has been preferred.

3. Respondent filed his counter, denying all the allegations made in the Writ Petition.

4. Heard both sides.

5. I have perused the entire material on record.

6. After going through the impugned order, it appears no notice was given to the petitioner and no details were given by the respondent as to how he had arrived at the alleged amount. Considering the facts and circumstances, I deem it appropriate to set aside the impugned order, dated 15-02-1999, and direct the respondent to reconsider the matter after giving opportunity to the petitioner along with the explanation submitted by him, in accordance with law.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

(DHARMA RAO ELIPE,J)

5th August, 2005.

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